



Crl.R.C.No.1163 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.06.2023

PRONOUNCED ON : 19.09.2023

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.1163 of 2018
and Crl.MP No.13556 of 2018

Murugadoss

... Petitioner/Accused

Vs.

State by Inspector of Police,
Portonovo Police Station,
Portonovo,
Cuddalore District.
[Cr.No.40 of 2011]

... Respondent/Complainant

PRAYER : This Criminal Revision Case is filed under Section 397 read with Section 401 of Cr.P.C., against the judgment in Crl.A.No.10 of 2018 dated 05.09.2018 on the file of the learned 2nd Additional District & Sessions Judge, Chidambaram, confirming the judgment and conviction of the learned District Munsif cum Judicial Magistrate, Portonovo in C.C.No.191 of 2013 dated 20.01.2018.

For Petitioner : Mr.N.Suresh

For Respondent : Mr.J.Priyadarsana
Government Advocate (Crl.Side)



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ORDER

Convicted sole accused is the revision petitioner herein.

2. The accused has filed this revision against the the judgment in Crl.A.No.10 of 2018 dated 05.09.2018 on the file of the learned 2nd Additional District & Sessions Judge, Chidambaram, confirming the judgment and conviction of the learned District Munsif cum Judicial Magistrate, Portonovo in C.C.No.191 of 2013 dated 20.01.2018.

3. The respondent police filed final report in Crime No.40 of 2011 alleging that on 18.02.2012 in connection with the celebrations of Maasimagam festival, the accused Murugadoss drove the Tata Ace vehicle bearing Regn.No.TN31 AY 2173. At that time, in order to avoid dashing on the goat, he managed the vehicle, however lost control and fell down in a pit whereby 31 persons have suffered injuries, 7 persons have suffered grievous injuries and 3 persons died due to the injuries sustained in the accident.



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4. During the trial, on the side of the prosecution, PW1 to PW48 were examined and exhibits Ex.P1 to P47 were marked. No material objects were marked. On the side of the defence, no oral or documentary evidence has been let in.

5. After hearing the rival submissions and after perusing the documents, the learned District Munsif cum Judicial Magistrate, Portonovo has led the conviction under Section 304 (A) for 3 counts of IPC and sentenced to undergo 6 months S.I in toto, R.I. for 1 1/2 years and fine of Rs.3000/- for three counts, i.e. Rs.9000/- in default undergo six months S.I. and ordered to sentence to run separately and in respect of offences under Section 279 of IPC, fine of Rs.1000/-, in default to undergo one month S.I., for the offences under Section 337 (31 counts) of IPC, fine of Rs.1000/- for each count, i.e. Rs.31,000/- in default to undergo 31 months S.I. and in respect of offence under Section 338 (7 counts) of IPC, pay fine of Rs.1500/- for each count, i.e. Rs.10,500/-, in default to undergo 7 months R.I.



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6. Against the said judgment of the learned District Munsif cum Judicial Magistrate, Portonovo, the petitioner filed an appeal before the learned II Additional Sessions Judge, Chidambaram in Crl.A.No.10 of 2018. On re-appreciation of the evidence, the learned Appellate Court has confirmed the conviction. Hence, the present revision.

7. Learned counsel for the revision petitioner submitted that both the courts below have not considered the evidence adduced on the side of prosecution viz. LW5/PW7, LW6/PW8, LW7/PW9, LW8/PW10, LW10/PW12, LW12/PW13, LW13/PW14, LW14/PW15, LW19/PW17, LW3/PW18, LW4/PW19 who all deposed that the accident has occurred due to sudden crossing of the goat in the way of the vehicle and as such the driver has to apply for the brake which resulted in the accident. PW8 and 15 were not cross examined, on the other hand PW8 and 15 have clearly admitted that it is only because of the crossing of the goat in the way of the vehicle, the accident had happened.



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8. Heard the learned Government Advocate (Crl.Side) appearing for the respondent and perused the records.

9(i). It is seen from the lower court records that Criminal law was settled to motion by one Deepa who was examined as PW1. She had travelled in the van on the fateful day, she was a witness, so also PW2 & PW3, the widow of the PW3 Masilamani who is the husband of the deceased Premavathi who died in the accident and also PW4 is the brother of the deceased. PW7 to PW35 and PW38 are eye-witnesses who had travelled in the van and PW5 & PW7 are eye-witnesses present at the place at the time of accident. So also the legal representatives of the deceased persons who died in the accident namely PW3, PW4, PW6 & PW7 were examined. Relatives of the deceased Premavathi are examined as PW3 & PW40. So also the relatives of the deceased Savithri were examined as PW36, PW37, PW39 & PW41.



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9 (ii) PW42, PW43 & PW44 are medical witness who had issued wound certificate for the injured witness and the same were marked as Exs.P3 to P37. The postmortem certificate of the deceased Premavathi is marked as Ex.P38, that of Savithri is marked as Ex.P46 and Selvi is marked as Ex.47. The police witness deposed regarding discharge of official duty in connection with receipt of Ex.P1-complaint and investigation and collection of postmortem certificate and filing of the final report. On perusal of the occurrence witnesses namely the injured witnesses, PW1, 2, 5 to PW35, both the Courts below has rightly come to the conclusion that due to the rash and negligent driving of the driver of the TATA Ace van, the accident has occurred and a nap answer has been taken in the cross examination cannot be a ground for acquittal and hence I find that the concurrent finding rendered by both the Courts below that the accident has taken place due to the rash and negligent driving of the driver of the van is still well founded and well marked, it does not suffer from any irregularity or illegality warranting interference at this revisional jurisdiction. Accordingly, the conviction of the Trial Court on the above said charges are hereby confirmed.



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10. On the quantum of sentence, heard the learned counsel for the revision petitioner.

11. Taking into consideration all the sentence awarded by the Trial Court, the conviction and sentence passed by the learned Judicial Magistrate No.1, Krishnagiri vide judgment dated 09.10.2018 in C.C.No.136 of 2015 as against A2/revision petitioner is modified and it is ordered as follows :

(i) the conviction and sentence imposed upon the revision petitioner for the proved charge under Section 279, punishment of fine has already been complied with; that fine receipt has been filed and the same is hereby confirmed.

(ii) the conviction and sentence imposed upon the revision petitioner for the proved charges under Section 337 (31 counts) was awarded by fine of Rs.1000/- each; the same has also been remitted; does not require any interference and the same is hereby confirmed.



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(iii) the conviction and sentence imposed upon the revision petitioner for the proved charge under Section 338 (7 counts) for fine of Rs.1500 x 7 = Rs.10,500/- has also been remitted and the same is hereby confirmed.

(iv) the conviction and sentence imposed upon the revision petitioner for the proved charge under Section 304 (A) (3 counts), the Trial Court has levied the sentence of six months simple imprisonment and ordered to run separately. The conviction of revision petitioner for the offence under Section 304 (A) (3 counts) of IPC, is confirmed. However, the sentence of six months simple imprisonment is reduced to three months simple imprisonment for each count and they are ordered to run concurrently. With regard to fine amount and default sentence imposed by the Trial Court, they are kept intact.

(v) As the revision petitioner is on bail, the trial Court shall take steps to secure the revision petitioner, to commit him in prison to serve out the remaining period of sentence.



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(vi) The period of sentence already undergone by the revision petitioner/accused, shall be set off under Section 428 of the Code of Criminal Procedure.

12. With the above modification, the Criminal Revision Case is partly allowed. Consequently, the connected Miscellaneous Petition is closed.

19.09.2023

Index : Yes/No
Speaking / Non-Speaking Order
Neutral Citation : Yes/No

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To

1. The II Additional District & Sessions Judge,
Chidambaram.

2. The District Munsif cum Judicial Magistrate,
Portonovo.

3. The Inspector of Police,
Portonovo Police Station,
Portonovo,
Cuddalore District.

4. The Public Prosecutor,
High Court, Madras.



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RMT.TEEKAA RAMAN,J.,

rgr

Pre-delivery order in
Crl.R.C.No.1163 of 2018

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